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Attorneys for Respondents

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ROSA MARIA MENDOZA-ROSAS,
a.k.a. ROSA SAENZ,

Petitioner,

v.

ALEJANDRO MAYORKAS, Secretary of
Department of Homeland Security, et al.,

Respondents.

C 3:21-05701 TSH

**STIPULATION REMANDING CASE TO
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, PURSUANT TO 8
U.S.C. § 1447(b) and ~~PROPOSED~~ ORDER**

1. Petitioner commenced an action pursuant to 8 U.S.C. § 1447(b), requesting this Court to adjudicate her application for naturalization that was pending before the United States Citizenship and Immigration Services (“USCIS” or “the agency”) for more than 120 days after Petitioner had been interviewed.

2. USCIS is now prepared to resolve this matter by adjudicating Petitioner’s application for naturalization. However, USCIS cannot adjudicate the application unless and until the Court remands the matter to the agency. *See* 8 U.S.C. § 1447(b) (explaining that the district court “may remand [a

Section 1447(b) case], with appropriate instructions, to the [USCIS]”); *United States v. Hovsepien*, 359 F.3d 1144, 1160 (9th Cir. 2004) (accord).

Accordingly, subject to the Court’s approval, IT IS HEREBY STIPULATED that:

1. The Court shall remand this case to USCIS, 630 Sansome Street, 3rd Floor, San Francisco, CA 94111, directing the agency to take any and all necessary actions, and to issue a decision on Petitioner’s application for naturalization within 30 days of the remand order. Based on the information now available to it, USCIS sees no basis that precludes a grant of Petitioner’s application for naturalization. However, Petitioner acknowledges her burden to establish and maintain eligibility for naturalization up to the time she has taken the oath of allegiance.

2. If USCIS does not issue a decision on Petitioner’s application for naturalization within the time frame set forth in paragraph 1 above, Respondents will not oppose any request by Petitioner to this Court to vacate the remand order and thereby re-assert jurisdiction over Petitioner’s action pursuant to 8 U.S.C. § 1447(b).

3. Petitioner has asserted a claim to attorney’s fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. The parties hereby enter into a settlement regarding attorney’s fees and costs under the EAJA.

4. USCIS agrees to pay Petitioner the sum of \$2,572.32 to resolve any potential liability for Petitioner’s attorney’s fees under the EAJA in this action. Such payment will be made by electronic transfer of funds (ETF) from the Department of Homeland Security.

5. The United States agrees to pay Petitioner the sum of \$402.00 to resolve any potential liability for Petitioner’s litigation costs in this action pursuant to 28 U.S.C. § 1920. Such payment will be made by ETF from the Treasury Department’s Judgment Fund.

6. Petitioner’s counsel agrees to provide counsel for Respondents with bank account information to allow the ETFs referenced in paragraphs 4 and 5 to occur. Plaintiff expressly consents for payment to be distributed to her undersigned attorney.

7. The parties hereby agree that these payments are in compromise and final settlement between the parties of all disputed matters and constitutes full satisfaction of all claims regarding attorney's fees and costs in this action.

8. Each party acknowledges and agrees that this settlement is a compromise of disputed claims and neither this settlement, nor any consideration provided pursuant to this settlement, shall be taken or construed to be an admission or concession by Respondents of any kind with respect to Respondents' liability for attorney's fees and costs under the EAJA or any other law.

Date: August 20, 2021

Respectfully submitted,

STEPHANIE M. HINDS
Acting United States Attorney

/s/ Elizabeth Kurlan
ELIZABETH KURLAN
Assistant United States Attorney
Attorneys for Respondents

Dated: August 18, 2021

/s/ Kevin Crabtree
KEVIN M. CRABTREE
Attorney for Petitioner

~~PROPOSED~~ ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Date: 8/20/2021


THOMAS S. HIXSON
United States Magistrate Judge